

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
MEMPHIS DIVISION**

JOHN VANPELT,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 2:10-CV-02364
)	
LIBERTY LIFE ASSURANCE COMPANY)	
OF BOSTON,)	
)	
Defendant.)	

**AMENDED ANSWER OF DEFENDANT
LIBERTY LIFE ASSURANCE COMPANY OF BOSTON**

Defendant, Liberty Life Assurance Company of Boston (“Liberty Life”), submits the following as its Answer to the Complaint of John Vanpelt (“Vanpelt” or Plaintiff) in the above-captioned matter. Liberty Life notes to the Court that this matter was originally filed as a civil warrant in the General Sessions Court for Shelby County, Tennessee, Case No. 1424514 (*see* Docket No. 1 filed May 14, 2010), and therefore there is not an enumerated Complaint from which to respond.

GENERAL ANSWER

Liberty Life denies that Plaintiff was wrongfully denied any long term disability benefits pursuant to his employer’s Group Disability Income Policy (the “Policy”). Answering further, Liberty Life states that Plaintiff does not meet the definition of “disabled” under the Policy. As a consequence, Liberty Life denies that Plaintiff is entitled to any relief in this cause of action.

AFFIRMATIVE DEFENSES

1. Liberty Life's administrative decisions in this matter are subject to a deferential arbitrary and capricious standard of review, and absent proof that Liberty Life acted arbitrarily or capriciously, its decision to deny long term disability benefits must be upheld.
2. To the extent Plaintiff's claims are based on state law, they are preempted.
3. Plaintiff's claims are barred in whole or in part by the applicable statutes of limitations and by the doctrines of laches, estoppel and waiver.

WHEREFORE, having fully answered, Defendant Liberty Life hereby requests that Plaintiff's Complaint against it be dismissed with prejudice and that Liberty Life be awarded its fees and costs, and such other relief, legal and equitable, as is just.

Respectfully submitted,

FROST BROWN TODD LLC

/s/ W. Judd Peak
M. Clark Spoden (#7364)
W. Judd Peak (#19850)
Fifth/Third Financial Center, Suite 1600
424 Church Street
Nashville, Tennessee 37219
615.251.5550
615.251.5551 *facsimile*

*Attorneys for Defendant
Liberty Life Assurance Company of Boston*

CERTIFICATE OF SERVICE

I, the undersigned attorney, hereby certify that on this 25th day of May, 2010, a true and correct copy of the foregoing document has been served via ECF upon the following: Brett A. Hughes, Esq., 2700 One Commerce Square, Memphis, Tennessee 38103.

/s/ W. Judd Peak